

BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
STATE OF CALIFORNIA

In the Matter of:	)	OAH No. N2001030643
	)	
HAZEL N. PALMER, as TRUSTEE OF THE	)	AGENCY NO. 2001-01AC
ELGIN W. PALMER AND HAZEL N.	)	
PALMER FAMILY TRUST, PROPERTY	)	WTF No. 15-TI-1213
OWNER	)	
	)	
RE: PALMER WASTE TIRE SITE (WTS)	)	
APN # 236-360-12-00	)	

## ADMINISTRATIVE DECISION PURSUANT TO STIPULATION

Pursuant to that certain "Stipulation for Issuance of Administrative Decision" dated May 11, 2001, entered into by and between Complainant CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (the "CIWMB") and Respondent HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER AND HAZEL N. PALMER FAMILY TRUST ("PALMER"), and good cause appearing therefore, the following Stipulated Factual Findings and Conclusions of Law are made, and the following Stipulated Order is issued:

## STIPULATED FACTUAL FINDINGS

1. The CIWMB has authority to inspect, permit, regulate and conduct enforcement actions against Waste Tire Facilities (WTFs) within the State of California under PRC section 42800 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER AND HAZEL N. PALMER FAMILY TRUST, Property Owner of the PALMER WTS, was

1 responsible for the waste tires being which had been stored on her property, APN # 236-360-12-  
2 00, commonly known as 1634 Highway 58, Mojave, CA in Kern County, California. This site is  
3 not a permitted WTF.

4 3. On June 26, 2000 (misdated in Inspection Report as June 27, 2000), Lew Elliott  
5 of the CIWMB conducted a waste tire facility inspection of the Palmer WTS and documented  
6 violations of 30 PRC 42834 (misnumbered in Inspection Report as 42833) - Operator Authorized  
7 by WTF Permit, Title 14 CCR sections 17351- Fire Prevention Measure, 17352- Facility Access  
8 and Site Security, 17353- Vector Control Measures, and 17354- Waste Tire Storage Standards.

9 4. A courtesy "Letter of Violation" dated June 27, 2000 was addressed and posted by  
10 U.S. Mail to Hazel Palmer (as well as Elgin Palmer) by Lew Elliott of the CIWMB. This letter  
11 states that the site is violating 30 PRC 42833 (in actuality Sec. 42834) and Title 14 CCR Sections  
12 17351, 17352, 17353, and 17354. The Inspection report accompanying this letter further  
13 documents that the site is storing approximately 3,000 waste tires on site. This letter requested  
14 that either a Corrective Action Plan (specifying either the time required to remove the tires or the  
15 intent to obtain a permit) for the stockpiled tires be submitted by August 15, 2000. No Plan was  
16 received at the CIWMB.

17 5. Clean Up & Abatement Order No. 2000-85 dated October 4, 2000, was issued by  
18 CIWMB to HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER AND HAZEL  
19 N. PALMER FAMILY TRUST, Property Owner of the PALMER WTS, requesting that Mrs.  
20 Palmer either obtain a WTF permit or remove all waste tires from this location by November 13,  
21 2000. Copies of destination receipts and Waste Tire Manifests were to be submitted to the  
22 CIWMB on or before November 13, 2000. No WTF Permit application was received at the  
23 CIWMB.

24 6. On January 9, 2001, Lew Elliott of the CIWMB conducted a site visit of this  
25 location and determined that approximately 2,000 waste tires were still located on site.  
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8. HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER AND HAZEL N. PALMER FAMILY TRUST, Property Owner of the PALMER WTS, violated Title 14 CCR Section 17351 -- Fire Prevention Measures, which lists specific equipment and water supply that must be available at a WTF. Mrs. Palmer did not have the equipment or water supply on site required by this section.

10. HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER AND HAZEL N. PALMER FAMILY TRUST, Property Owner of the PALMER WTS, violated Title 14, CCR Section 17353 -- Vector Control Measures, which lists requirements for the prevention of breeding and harborage of mosquitoes, rodents and other vectors at a WTF. Mrs. Palmer did not comply with these requirements.

12. HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER AND HAZEL N. PALMER FAMILY TRUST, Property Owner of the PALMER WTS, violated Clean Up & Abatement Order No. 2000-85, issued to her by the CIWMB on October 4, 2000. Clean

1 Up & Abatement Order No. 2000-85 directed Mrs. Palmer to remove all waste tires by  
2 November 13, 2000. Copies of destination receipts and Waste Tire Manifests were to be  
3 submitted to the CIWMB on or before November 20, 2000. Mrs. Palmer did not comply with  
4 these requirements.

5 13. HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER AND  
6 HAZEL N. PALMER FAMILY TRUST, Property Owner of the PALMER WTS, is liable for  
7 civil penalties as set forth in Public Resources Code section 42850(b). Under this section,  
8 liability may be imposed in an administrative action. Pursuant to Public Resources Code section  
9 42846.5, the imposition of penalties herein may form the basis for a subsequent Board order  
10 permitting the Board or its contractors access to the property mentioned herein to perform  
11 cleanup, abatement or remedial work under section 42846.

12 14. The CIWMB's authority to assess civil penalties against HAZEL N. PALMER, as  
13 TRUSTEE OF THE ELGIN W. PALMER AND HAZEL N. PALMER FAMILY TRUST,  
14 Property Owner, is set forth in PRC section 42850, which states:  
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16 "Any person who negligently violates any provision of this chapter, or any permit,  
17 rule, regulation, standard, or requirement issued or adopted pursuant to this  
18 chapter is liable for a civil penalty of not less than five hundred dollars (\$500) or  
19 more than five thousand dollars (\$5,000) for each violation of a separate provision  
or, for continuing violations, for each day that violation continues."

20 Under this section, HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER  
21 AND HAZEL N. PALMER FAMILY TRUST, as Property Owner of the PALMER WTS, is  
22 subject to a separate civil penalty of not less than \$500 or more than \$5,000.00 for each day the  
23 PALMER WTS is in violation of each requirement listed above.

24 15. In setting an appropriate civil penalty, the CIWMB has taken into consideration  
25 the nature, extent and gravity of the violations, and the complete disregard of applicable statute  
26 and regulation on Mrs. Palmer's behalf.

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1     **ADMINISTRATIVE DECISION BASED UPON STIPULATED FACTUAL FINDINGS**  
2                     **AND STIPULATED CONCLUSIONS OF LAW**

3             Pursuant to the Stipulated Factual Findings and Stipulated Conclusions of Law, and good  
4 cause appearing therefore, the following Administrative Decision is hereby issued in this  
5 proceeding:

6             Respondent HAZEL N. PALMER, as TRUSTEE OF THE ELGIN W. PALMER AND  
7 HAZEL N. PALMER FAMILY TRUST, shall pay a monetary penalty of Five Thousand and  
8 Fifty Dollars (\$5,050.00) to the California Integrated Waste Management Board. Said  
9 Respondent shall pay interest at the legal rate, plus reasonable attorney's fees and other costs of  
10 collection, commencing on the date the CIWMB converts this Decision into a Judgment.  
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12 Dated: May 15, 2001  
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16 Catherine B. Frink  
17 Administrative Law Judge  
18 Office of Administrative Hearings  
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